

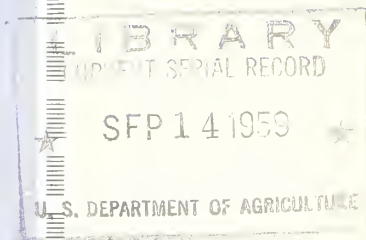
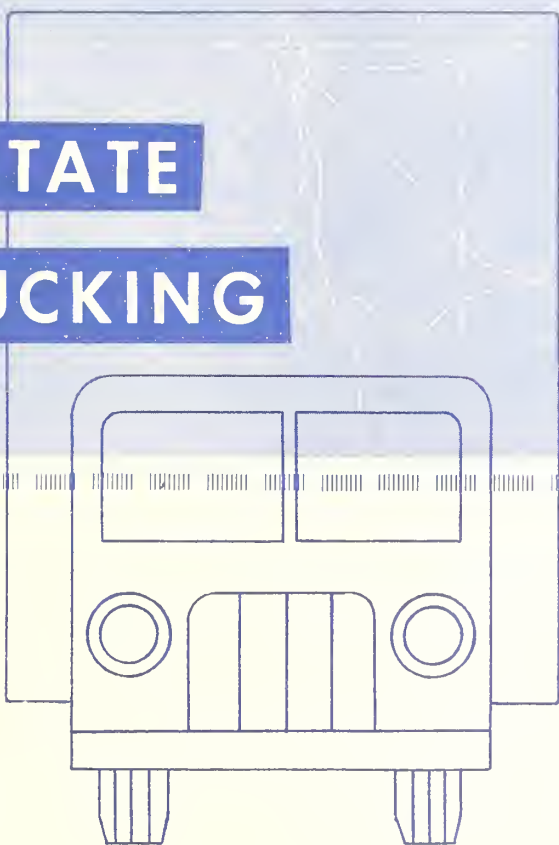
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MARKETING RESEARCH REPORT NO. 352

THE AGRICULTURAL
EXEMPTION
IN
INTERSTATE
TRUCKING



*Developments in
1957-58*

UNITED STATES DEPARTMENT OF AGRICULTURE
Agricultural Marketing Service
Marketing Research Division
Washington, D. C.

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HIGHLIGHTS

During the 85th Congress (1957-58) several bills were proposed in each House to restrict in one way or another the application of the agricultural exemption on interstate trucking. After extended hearings a bill was brought forth which became the Transportation Act of 1958.

This bill gave the status of law to the Interstate Commerce Commission's Ruling No. 107 of March 19, 1958, stating that those items declared in it to be exempt shall be so and those declared in it to be not exempt shall be so considered. At the same time, the Act specifically excluded from the exemption frozen fruits and frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, hemp, wool imported from any foreign country, wool tops and noils, and wool waste (carded, spun, woven, or knitted). These exclusions served to narrow the scope of the exemption. "Grandfather rights" were accorded carriers which had been transporting these formerly exempt commodities.

The Act broadened the exemption with respect to fish products by providing that cooked or uncooked (including breaded) fish or shellfish, when frozen or fresh, shall be included within its scope.

Since the list of commodities included in Ruling No. 107 was not exhaustive, there will still be occasion for determination by the ICC and the courts of the status of other commodities of agricultural origin.

In 1957-58 two cases were decided which dealt with the interpretation of the agricultural exemption. In the ICC's appeal in the Frozen Food Express Case, the Supreme Court upheld a lower court ruling that dried egg powder, dried egg yolks, powdered milk, buttermilk, and frozen fruits and vegetables were exempt. The new law has negated this decision with regard to frozen fruits and vegetables.

In a reopening of the Determinations Case, the ICC decided that coffee beans, cocoa beans, and tea were exempt because foreign agricultural products were included within the exemption. It decided further that salt-cured cucumbers were exempt because the cucumbers met the "continuing substantial identity" test applied by the Supreme Court in an earlier case. The new law has now removed coffee beans, cocoa beans, and tea from the exemption.

This report has been prepared to supplement an earlier study which traced the legislative and judicial history of the agricultural exemption from its beginning in 1935 through May 1957. So much of importance to the exemption took place during the tenure of the 85th Congress, especially the passage of the Transportation Act of 1958, that it was considered advisable to issue a factual report bringing the history up to date.

THE AGRICULTURAL EXEMPTION IN INTERSTATE TRUCKING:
DEVELOPMENTS IN 1957-1958

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BACKGROUND

It is the purpose of this report to recount the outstanding events in the 1957-1958 legislative and judicial history of the "agricultural exemption" in interstate trucking. The story of this exemption, from its origin in the Motor Carrier Act of 1935 through May 1957, may be found in a previous publication, "The Agricultural Exemption in Interstate Trucking--A Legislative and Judicial History." 1/

The exemption referred to here is contained in Section 203(b) (6) of the Interstate Commerce Act. The earlier report covered not only this exemption but also the related ones, contained in Sections 203(b) (4a) and 203(b) (5). Because these related exemptions have not been amended or reinterpreted since the earlier study, they are omitted from this report.

Section 203(b) (6) provides exemption from economic regulation by the Interstate Commerce Commission for motor vehicles which, on a for-hire basis, carry agricultural commodities and the unmanufactured products thereof. This means that the ICC has no control over who enters the business of trucking these commodities, the routes he travels, the areas he serves, the rates he charges, and so forth. This exemption does not apply when the exempt commodities are carried in a mixed load with commodities subject to regulation.

Although numerous attempts were made to amend this section, it stood unchanged from July 1952 to August 1958. During that period it read as follows:

Section 203

* * *

(b) Nothing in this part, except the provisions of section 204 relative to qualifications and maximum hours of service of employees and safety of operation or standards of equipment shall be construed to include * * *

1/ Sperling, Celia. The Agricultural Exemption in Interstate Trucking--A Legislative and Judicial History, U. S. Dept. Agr., Mktg. Res. Rpt. 188, 71 pp., July 1957.

(6) motor vehicles used in carrying property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof), if such motor vehicles are not used in carrying any other property, or passengers, for compensation;

Until 1956, the ICC maintained that fresh and frozen dressed poultry and frozen fruits and vegetables were manufactured products and hence the trucking of them was subject to ICC economic control. In that year, the U. S. Supreme Court held that these products are not manufactured and hence the trucking of them is exempt from the economic control which the ICC had been applying to that transportation. In October 1957, the Supreme Court handed down the same sort of decision as to various other commodities--dried egg powder, dried egg yolks, powdered milk, and buttermilk--previously held by the ICC to be manufactured products. The same case involved a new attempt to get frozen fruits and vegetables declared outside the exemption; but the Court still held that these are agricultural commodities, not manufactured products. The ICC considered these Supreme Court rulings of 1956 and 1957 an excessively liberal interpretation of the scope of the agricultural exemption. The Supreme Court's view, of course, was that these decisions were simply the carrying out of the will of Congress.

Not only was there controversy about what Congress had meant but there were also marked differences of opinion within the transportation industry and among the growers, processors, and distributors of agricultural commodities about what the law ought to be. This report, like its forerunner, does not deal with the latter question. It is concerned only with what Congress, the courts, and the Interstate Commerce Commission have done or refused to do about this law. Efforts, both successful and otherwise, made during the 85th Congress (1957-58) to amend this section are examined.

ACTION OF THE 85TH CONGRESS

Legislation Recommended by the Interstate Commerce Commission

In its 70th Annual Report (November 1, 1956) the Interstate Commerce Commission recommended, as it had several times before, that the scope of the exemption be restricted to the first movement from the point of production to the primary market. In the spring of 1957 the chairmen of both the Senate Committee on Interstate and Foreign Commerce (Senator Magnuson) and the corresponding Committee in the House of Representatives (Representative Harris) introduced, at the request of the ICC, identical bills embodying this proposal.

S. 1689, introduced on March 22, 1957, and H.R. 5823, introduced on March 17, 1957, would have changed Section 203(b) (6) to read as follows: 2/

(6) motor vehicles used in carrying property consisting of ordinary livestock, live poultry, fish (including shellfish),

2/ Words underlined were added.

or agricultural (including horticultural) commodities (not including manufactured products thereof or frozen foods) from the point of production to a point where such commodities first pass out of the actual possession and control of the producer, if such motor vehicles are not at the same time used in carrying any other property, or passengers, for compensation. For the purpose of this paragraph the point of production for fish shall be deemed to be the wharf or other landing place at which the fisherman debarks his catch, and the point of production for agricultural commodities shall be the point at which grown, raised or produced, or the point at which the fish or agricultural commodities are gathered for shipment.

These bills would have had the effect of restricting the scope of the exemption in two ways: (a) By retaining the existing type of restriction--in terms of the stage of processing through which the commodities hauled have passed, and (b) by adding a further limitation--in terms of the point within the marketing channel beyond which the exemption shall not apply. The first type of restriction would be made more severe by excluding frozen foods from the benefit of the exemption. Likewise, the separate listing of live poultry which had, until this time, been included in the general term "agricultural commodities," might be interpreted to exclude dressed poultry, both frozen and fresh, from the exemption.

The phrase "to a point where such commodities first pass out of the actual possession and control of the producer" would make ICC control begin at widely varying points in the marketing channel. The farmer could relinquish possession and control of the crop in the field or, at the other extreme, in the community where the consumers live, or at some intermediate point.

In the Senate there were no hearings or other action on S. 1689. The House Committee held hearings on H.R. 5823 in April 1958, but no further action was taken on it.

In the House of Representatives and the Senate alike, a bill introduced at any time during the 2-year life of a Congress remains alive till the end of that term unless rejected meanwhile. If not rejected, it dies at the end of the 2-year term. Thus, bills introduced in 1957 and not enacted into law or rejected were alive throughout 1958, and then died when the term of the new Congress began (January 1959).

Senator Smathers' Bill - S..2553

On July 15, 1957, Senator Smathers, Chairman of the Surface Transportation Subcommittee of the Senate Committee on Interstate and Foreign Commerce, introduced S. 2553 to amend the exemption clause to read as follows:

(6) motor vehicles used in carrying property (when such property is not transported in the same vehicle with any other property, or passengers, for compensation) consisting

of (a) fish (including shellfish); (b) ordinary livestock, as defined in section 20(11) of this Act; (c) leaf tobacco (not including redried tobacco); (d) nuts (not including shelled peanuts); (e) live poultry and raw eggs in the shell (not including frozen eggs); (f) domestic wool and mohair (not including cleaned or scoured wool or mohair); (g) fresh, pasteurized, fortified, standardized or homogenized milk, cream, skimmed milk, buttermilk or whey (including concentrated or condensed products thereof when shipped in milk shipping cans not hermetically sealed, or in bulk in tanks, but not including canned, churned, dried or powdered milk, cream, skimmed milk, buttermilk or whey or other manufactured products thereof); or (h) other agricultural or horticultural commodities (not including manufactured, cooked, canned, frozen, powdered, dehydrated, evaporated, condensed, concentrated, milled or pearled commodities or products thereof, or chilled juices or fruit salad).

The bill provided for the exclusion from the benefit of the agricultural exemption by specific enumeration a number of commodities which had been included in it by recent interpretations of the Supreme Court and other Federal Courts. Before the Courts had ruled these commodities (such as fresh and frozen dressed poultry and frozen fruits and vegetables) to be exempt, the Interstate Commerce Commission considered it permissible to move them in interstate traffic only when the Commission had granted operating rights to common or contract motor carriers to haul these products. This bill contained a provision to reinstitute the operating authority held by these formerly regulated carriers, both common and contract, to haul such items.

It also provided for the extension of "grandfather rights" ^{3/} to truckers who were engaged in carrying, on September 1, 1956, and who had continued to haul since that time (without operating authority from the ICC), the commodities subjected to regulation by this bill. Under the bill, these carriers would have been allowed to apply to the Commission within 120 days after enactment for a certificate or permit to operate. Upon a trucker's establishing to the Commission's satisfaction that he was indeed engaged, for the required period of time, in the trucking mentioned above, the Commission would be required to grant operating authority for him to continue rendering the particular transportation service involved.

Truckers who had begun their operations in this area since September 1, 1956, would be granted "interim" rights allowing them to file for operating rights within 120 days, with no special privileges over other new applicants except permission to continue their operations pending disposition of their cases by the Commission. Such applicants for certificates as common carriers would have to prove public convenience and necessity, while applicants

^{3/} Grandfather rights are a grant of special rights to a carrier if it, or its predecessor, on a specified date in the past, was rendering a transportation service which is now about to be regulated.

for permits as contract carriers would have to show consistency with the public interest and the national transportation policy as stated in the Interstate Commerce Act. These are the requirements imposed by that Act on all persons who, without ever having done any trucking before, wish to engage in trucking that is subject to economic regulation by the ICC.

The Committee held no hearings and took no other action on this bill.

House Bills

In the second session of the 85th Congress (1958), a series of bills was introduced in the House which embodied, among other provisions, amendments to the agricultural exemption clause.

On May 13, Rep. Byrne of Illinois introduced H.R. 12488. On May 28, Rep. Boyle introduced H. R. 12677 and Rep. Gray introduced H.R. 12681, both identical to Mr. Byrne's bill. The following would have been added by all of these bills at the end of the existing Section 203(b) (6) as quoted in the "Background":

Provided, That the words "property consisting of ordinary livestock, fish (including shell fish) or agricultural (including horticultural) commodities (not including manufactured products thereof)" as used herein shall include only those commodities shown as "Exempt" in the "Commodity List" incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission. Provided further, however, That notwithstanding the preceding proviso the words "property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof)" shall not be deemed to include frozen fruits, frozen berries or frozen vegetables, or property imported from any foreign country;

All three of these bills extended grandfather rights to carriers in operation on and since January 1, 1958, and interim operating rights to those who had entered the business since that date.

The "Commodity List" to which the bills refer had been issued in Administrative Ruling No. 107 by the Bureau of Motor Carriers of the ICC "for the purpose of making readily available holdings of the Commission and the courts, and Bureau opinions, relating to the status of various commodities under the partial exemption." 4/ The list noted some commodities as exempt and

4/ The partial exemption refers to exemption from economic regulation, while safety regulation remains in force. Safety regulation includes standards of equipment and qualifications and maximum hours of service of employees.

others as not exempt. The Bureau stated that its "opinions" listed in this ruling were tentative and provisional and were made either in the absence of authoritative Commission or court decisions or in applying the holdings and reasoning of court decisions which reversed or altered past general and specific findings of the Commission.

The Bureau of Motor Carriers stated further in its introduction to the Commodity List that: "The absence of a commodity from the list below should not be taken to mean that it is either within or not within the exemption. Only those commodities are listed as to which inquiries have been received in the past by the Bureau or which have been the subject of Commission or court proceedings."

It is clear from this statement that it was not intended that this list be considered an all-inclusive one. Because the three bills would have limited the exemption to those commodities noted as exempt in the ICC list, the Commission and the courts would have been forbidden to treat any commodity as exempt if no question had been raised as to its status prior to March 19, 1958 (the date of issuance of Ruling Number 107).

On June 16, 1958, Rep. Pillion introduced H.R. 12964. It proposed to amend the agricultural exemption by adding to Section 203(b)(6) the following language:

Provided, that the words "property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof)" as used herein shall include property shown as "Exempt" in the "Commodity List" incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, but shall not include property shown therein as "Not exempt": Provided further, however, That notwithstanding the preceding proviso the words "property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof)" shall not be deemed to include frozen fruits, frozen berries, or frozen vegetables, coffee, tea, cocoa or hemp, and wool imports from any foreign country or wool, cleaned or scoured, wool tops and noils or wool waste, carded but not spun, woven or knitted.

This bill, too, extended grandfather rights to truckers carrying the products to be controlled on or since January 1, 1958, and interim operating rights to firms which had entered this area of operation since that date.

The bill, while specifically excluding more items than the three House bills mentioned above, would not have been as restrictive as the others because it would not preclude additional commodities, on which no decision had been asked up to this point, from being judged either exempt or not exempt at some future time.

No hearings were held and no action was taken on any of these four bills.

The Transportation Act of 1958

The Smathers Bill - S. 3778

The Surface Transportation Subcommittee of the Senate Interstate and Foreign Commerce Committee conducted extensive hearings on the problems of the railroads from January 13 through April 3, 1958. Testimony was presented by representatives of all modes of transportation (railroads, the trucking industry, the barge lines, etc.), shippers, government agencies, and other interested parties. The Subcommittee issued a report 5/ and, on May 8, Senator Smathers, the chairman, introduced S. 3778 to amend the Interstate Commerce Act "so as to strengthen the national transportation system, and for other purposes." S. 3778 was a widely varied series of amendments to the Act, dealing chiefly with matters other than the agricultural exemption. In its original form, this bill contained a section to amend the agricultural exemption in the same language as the three identical House bills mentioned above (H.R. 12488, 12677, and 12681).

On June 3, 1958, the Senate Committee reported the bill with amendments which altered the amendment to Section 203(b) (6) to read as follows: 6/

Provided, That the words "property consisting of ordinary livestock, fish (including shellfish); or agricultural (including horticultural) commodities (not including manufactured products thereof)" as used herein shall include /only those commodities/ property shown as "Exempt" in the "Commodity List" incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, but shall not include property shown therein as "Not exempt": Provided, further, however, That notwithstanding the preceding proviso the words "property consisting of ordinary livestock, fish (including shellfish), or agricultural (including horticultural) commodities (not including manufactured products thereof)" shall not be deemed to include frozen fruits, frozen berries, or frozen vegetables /, or property imported from any foreign country / and shall be deemed to include cooked or uncooked (including breaded) fish or shellfish, when frozen or fresh;

The bill provided grandfather rights for motor carriers which had been carrying, on and since January 1, 1953, commodities which had been exempt and which it brought under regulation. It also included interim operating rights

5/ "Problems of the Railroads" - Report of the Subcommittee on Surface Transportation of the Committee on Interstate and Foreign Commerce, April 30, 1958.

6/ Words in brackets were deleted; those underlined were added. The changes marked here are differences from S. 3778 as originally introduced--not differences from the law as it then stood.

for those motor carriers which had begun operating since that date. Both were to be exercised within 120 days after enactment of the law. Appropriate application was required to be filed with the Commission for the exercise of either or both of such rights.

The bill passed the Senate in this form on June 11, 1958. ✓

The Harris Bill - H.R. 12832

The House Committee on Interstate and Foreign Commerce held hearings on May 19-26, 1958, on the general transportation problem. As a result, on June 5, 1958, Rep. Harris introduced H.R. 12832, a companion bill to Senator Smathers' S. 3778. Mr. Harris' bill contained a section to amend the agricultural exemption provision in the same manner as S. 3778, as passed by the Senate, except for the reference to fish, which differed as follows from the last two lines quoted above:

* * * and shall be deemed to include fish or shellfish, and fresh or frozen products thereof containing seafood as the basic ingredient, whether breaded, cooked or otherwise prepared (but not including fish and shellfish which have been treated for preserving, such as canned, smoked, salted, pickled, spiced, corned or kippered products);

By including fresh and frozen products, in which the basic ingredient is seafood, it made the fish exemption broader than in the Smathers bill.

It granted grandfather rights for those carriers in operation on June 1, 1958, and interim operating rights for those which began operating after that date. It required that application for the exercise of such rights be filed with the Commission within 120 days after the date of enactment of the law.

This bill was amended in committee; and the provision amending the agricultural exemption was reported to the House on June 18, 1958, with the second proviso (following the words "'Not exempt:'") altered to read as follows:

* * * Provided further, however, That notwithstanding the preceding proviso the words "property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof)" shall not be deemed to include frozen fruits, frozen berries, frozen vegetables, coffee, tea, cocoa or hemp, and wool imported from any foreign country or wool, cleaned or scoured, wool tops and noils, or wool waste, carded but not spun, woven or knitted and shall be deemed to include fish or shell fish, and fresh or frozen products thereof containing seafood as the basic ingredient, whether breaded, cooked or otherwise prepared (but not including fish or

shellfish which have been treated for preserving, such as canned, smoked, salted, pickled, spiced, corned or kippered products);

This amendment made no changes at all in the bill's previous phrasing concerning fish. It listed additional commodities (besides frozen fruits, frozen berries, and frozen vegetables) which were to be expressly excluded from the exemption.

During debate in the House on June 27, Rep. Staggers offered an amendment to delete "or wool, cleaned or scoured," leaving wool in this form within the scope of the exemption. The amendment was accepted.

Rep. Roberts proposed an amendment to insert "bananas" after the word "cocoa," thereby removing the carriage of bananas from the exemption. This amendment, too, was accepted.

The Law

This bill (H.R. 12832) and S. 3778 were sent to a conference committee of the two Houses of Congress. The result was a compromise bill signed into law (Public Law 85-625) on August 12, 1958.

The list of commodities excluded from the exemption by H.R. 12832 was embodied in this law. "Wool waste, carded but not spun, woven or knitted" was corrected to read "wool waste (carded, spun, woven or knitted)." The slightly more restrictive fish exemption of S. 3778 was incorporated in the law. The full text of Section 7 of this law, dealing with the agricultural exemption, reads as follows:

Sec. 7. (a) Clause (6) of subsection (b) of section 203 of the Interstate Commerce Act, as amended, is amended by striking out the semicolon at the end thereof and inserting in lieu thereof a colon and the following: 7/
"Provided, That the words 'property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof)' as used herein shall include property shown as 'Exempt' in the 'Commodity List' incorporated in ruling numbered 107, March 19, 1958, Bureau of Motor Carriers, Interstate Commerce Commission, but shall not include property shown therein as 'Not exempt':
Provided further, however, That notwithstanding the preceding proviso the words 'property consisting of ordinary livestock, fish (including shell fish), or agricultural (including horticultural) commodities (not including manufactured products thereof)' shall not be deemed to include

^{7/} In the Background section of this report, the clause thus amended is quoted in full, as it stood before this enactment.

frozen fruits, frozen berries, frozen vegetables, cocoa beans, coffee beans, tea, bananas, or hemp, and wool imported from any foreign country, wool tops and noils, or wool waste (carded, spun, woven, or knitted), and shall be deemed to include cooked or uncooked (including breaded) fish or shell fish when frozen or fresh (but not including fish and shell fish which have been treated for preserving, such as canned, smoked, pickled, spiced, corned or kippered products);".

(b) Unless otherwise specifically indicated therein, the holder of any certificate or permit heretofore issued by the Interstate Commerce Commission, or hereafter so issued pursuant to an application filed on or before the date August 13, 1958 on which this section takes effect, authorizing the holder thereof to engage as a common or contract carrier by motor vehicle in the transportation in interstate or foreign commerce of property made subject to the provisions of part II of the Interstate Commerce Act by paragraph (a) of this section, over any route or routes or within any territory, may without making application under that Act engage, to the same extent and subject to the same terms, conditions and limitations, as a common or contract carrier by motor vehicle, as the case may be, in the transportation of such property, over such route or routes or within such territory, in interstate or foreign commerce.

(c) Subject to the provisions of section 210 of the Interstate Commerce Act, if any person (or its predecessor in interest) was in bona fide operation on May 1, 1958, over any route or routes or within any territory, in the transportation of property for compensation by motor vehicle made subject to the provisions of part II of that Act by paragraph (a) of this section, in interstate or foreign commerce, and has so operated since that time (or if engaged in furnishing seasonal service only, was in bona fide operation on May 1, 1958, during the season ordinarily covered by its operations and has so operated since that time), except in either instance as to interruptions of service over which such applicant or its predecessor in interest had no control, the Interstate Commerce Commission shall without further proceedings issue a certificate or permit, as the type of operation may warrant, authorizing such operations as a common or contract carrier by motor vehicle if application is made to the said Commission as provided in part II of the Interstate Commerce Act and within one hundred and twenty days after the date on which this section takes effect. Pending the determination of any such application, the continuance of such operation without a certificate or permit shall be lawful. Any carrier which on the date this section takes effect is engaged in an operation of the character specified in the foregoing provisions of this paragraph, but was not engaged in such

operation on May 1, 1958, may under such regulations as the Interstate Commerce Commission shall prescribe, if application for a certificate or permit is made to the said Commission within one hundred and twenty days after the date on which this section takes effect, continue such operation without a certificate or permit pending the determination of such application in accordance with the provisions of part II of the Interstate Commerce Act.

In effect, Section 7 (a) makes the Commodity List in Ruling No. 107 an integral part of the Interstate Commerce Act. 8/ By so doing, it writes into law a specific enumeration of many commodities which are included in the term "agricultural commodities" and which are, therefore, exempt. At the same time, the Commodity List shows many specific items which are to be considered not exempt. To this is added the list of articles, written directly into the act, which are returned to nonexempt status by this law.

This itemizing of commodities directly in the law marks a new departure. Up to now it has been the function of the Interstate Commerce Commission and the courts to interpret the general terminology in the law--"agricultural commodities"--in terms of specific commodities.

That function with regard to the agricultural exemption has not been entirely withdrawn from the Commission and the courts. The amended exemption does not try to list all exempted commodities. Neither does it seek to list all commodities which--although agricultural in origin--are to be nonexempt. So far as concerns any commodity which is in some sense agricultural but is not listed in Ruling No. 107 as either exempt or nonexempt, and not listed in the Transportation Act of 1958 as exempt or nonexempt, the ICC and the courts can still decide whether it falls within the exemption. Among the commodities about which such decisions may be made are processed products which have yet to be developed.

Another new approach has been added. Hitherto, commodities were within the agricultural exemption if they were regarded by the ICC or the courts as agricultural commodities and had not been so extensively processed as to be viewed as having become manufactured. Although the Commission and the courts made the decisions as to specific commodities, Congress had laid down and retained for 23 years the principle that all agricultural commodities that were not manufactured were within the exemption. In the Transportation Act of 1958, Congress excludes from the exemption some specific commodities to which, very probably, there is no question of whether they are agricultural or whether they have been manufactured, but which are excluded presumably on some other basis. One example is bananas. This fruit is not grown commercially in the continental United States. Another example is "wool imported from any foreign country." On the other hand, in the Transportation Act of 1958, Congress lists as exempt certain commodities which had been adjudged by the ICC or the courts to be manufactured products--for example, cooked fish.

8/ The list in Ruling No. 107 issued on March 19, 1958, is thus given the force of a statute. If the ICC were to amend this list, the changes thus made would not have statutory force without further action by Congress.

Before some of the commodities now returned to nonexempt status by this law had been declared exempt by the courts, some motor carriers had received operating rights from the Commission to haul them. When the courts declared those commodities to be exempt, the rights to transport them were made unnecessary. Now that it has again become necessary for carriers to have operating rights to haul these commodities, the law, in Section 7(b), reinstitutes the operating rights which the Commission had granted earlier.

According to Section 7(c), the date on which a carrier or its predecessor must have been in operation to claim grandfather rights is May 1, 1958. This was a compromise between the Senate and House bills.

DECISIONS BY THE INTERSTATE COMMERCE COMMISSION AND THE COURTS

Frozen Food Express Case

Several years ago the Frozen Food Express Company brought action in Federal District Court, in the Southern District of Texas, against the Interstate Commerce Commission. The firm, a certificated common carrier, wanted to haul agricultural commodities, on a for-hire basis, to and from all points in the United States, irrespective of the limitation imposed by its certificates. It claimed that the Commission's report in the Determinations Case (52 M.C.C. 511), by excluding certain commodities from the agricultural exemption, deprived it of the right to engage in the desired business. ^{9/} The company sought an injunction to keep the ICC and the United States Government in general from enforcing or recognizing the validity of the report.

The Department of Agriculture appeared as intervening plaintiff, supporting, in large part, the petition of the Frozen Food Express Company.

A three-judge Federal District Court decided that the report in the Determinations Case was not subject to judicial review because the proceeding before the ICC was not an adversary one (that is, it did not arise from a dispute) and the report, therefore, did not have the force of an order. On appeal, the U. S. Supreme Court reversed the lower court and sent the case back to the Federal District Court to review the report in the Determinations Case. ^{10/}

In reviewing the ICC's report, the three-judge District Court found that a large number of agricultural commodities had undergone processing but had retained a "continuing substantial identity," and hence had not become manufactured products. Consequently, these were ruled to be within the scope of the exemption. Others, which had taken on "a new identity, with new properties" (that is, had become manufactured products), were ruled nonexempt.

^{9/} Sperling, Celia. The Agricultural Exemption in Interstate Trucking-- A Legislative and Judicial History, U. S. Dept. Agr., Mktg. Res. Rpt. 188, July 1957, p. 27.

^{10/} Frozen Food Express v. United States of America and Interstate Commerce Commission (S.D. Texas 1955) 128 F. Supp. 374; decided January 26, 1955. Decision reversed (351 U.S. 40) on April 23, 1956.

The Interstate Commerce Commission took an appeal from this decision to the U. S. Supreme Court, but limited its appeal to dried egg powder, dried egg yolks, powdered milk, buttermilk, and frozen fruits and vegetables. These were among the commodities which the District Court had ruled exempt. The ICC stated that, in limiting its appeal to these commodities, it was accepting the court's decision with reference to the other commodities. The Supreme Court upheld the lower court with respect to the items in question. 11/

Determination of Exempted Agricultural Commodities 12/
(Coffee and Cucumbers)

A nonregulated carrier, Patrick Izzi, petitioned the Interstate Commerce Commission for a determination of the status of green coffee beans. The Commission itself desired a ruling on the status of cocoa beans and tea. The Determinations Case was reopened to decide whether these three items fall within the partial exemption granted in Section 203(b)(6) of the Interstate Commerce Act.

On July 9, 1954, the Hadder Trucking Company requested an unofficial ruling on whether salt-cured cucumbers fall within the exemption. The case was reopened with reference to this commodity, too.

The Commission found that two questions were at issue: "(1) Whether foreign-grown agricultural commodities come within the purview of the partial exemption provided by Section 203(b)(6), and (2) whether the commodities, because of some processing or manufacture, are thereby removed from the application of the partial exemption."

The Commission decided first, that the term "agricultural (including horticultural) commodities (not including manufactured products thereof)" includes foreign agricultural commodities.

In making its determination on the second question, the ICC cited the Frozen Food Express Case (351 U. S. 49) for the application of the "continuing substantial identity" test and the Home Transfer and Storage Case (352 U.S. 884) where the same principle was applied. With dissents on specific points by individual Commissioners, the Commission stated:

"Applying this test to the commodities here involved, we are compelled to the conclusion that the processes undergone by them do not cause them substantially to lose their identity as tea leaves, coffee beans, and cocoa beans, or cucumbers and that tea, green coffee beans, cocoa beans, and salt-cured cucumbers are, therefore, agricultural commodities."

11/ Decided on remand (S.D. Texas 1956) 148 F. Supp. 399, on December 31, 1956. Decision affirmed on October 14, 1957, in Interstate Commerce Commission v. Frozen Food Express (355 U.S. 6).

12/ 74 M.C.C. 549, decided February 11, 1958.

Chairman Freas disagreed with the majority on the exemption of salt-cured cucumbers. He said that when they are shipped, they are processed in a manner rendering them inedible. Even though they are later "uncured," their substantial identity has not been preserved.

Commissioner Arpaia, with Commissioner Hutchinson concurring, also dissented from the majority opinion. He rejected the continuing substantial identity test and made a broad attack on the agricultural commodities exemption. He said:

"It should be pointed out to the Court that the continuing substantial identity test is impractical and difficult to apply. It is vague and uncertain and means different things to different people. It is creating conditions undermining public transportation and promoting the growth of a transportation service totally unrelated to the original purpose of section 203(b) (6). * * *

"If the future of a basic essential service is to depend on such fine distinctions as when a cucumber ceases to be identifiable as a cucumber then there is real danger that regulation is being limited to form rather than substance and we are regulating for regulation's sake."

Of the exemption itself, he said:

"It has created uncertainty for shipper transportation costs, which vary from day to day, shipper to shipper, and leaves the Commission without control over discrimination and preference between individuals, areas and localities, the prevention of which is one of the basic purposes of the Interstate Commerce Act. Standards have deteriorated and the dependability of normal services to the farmer himself as well as other shippers is being jeopardized.

"Price advantages in transportation of a temporary nature may possibly accrue to certain dealers in these so-called exempt commodities, but these advantages are offset by competitive excesses, the use of inferior or substandard equipment, violations of safety regulations, inadequate insurance and failures of service and the other benefits which Congress sought to effectuate, not for the few but for the many. The advantages are not only illusory but undemocratic and result in the deterioration rather than the promotion of sound transportation in the national interest."

On the subject of imported agricultural commodities, he said:

"* * * I can see no reason for exempting them in any way whatsoever. The Motor Carrier Act was passed for the purpose of regulating transportation performed within the

continental limits of the United States. In no sense was it an Act to promote foreign commerce or promote trade relations with other countries. Neither was the exemption itself intended to benefit farmers in the Far East, Central and South America, or other parts of the world. It is inconceivable that foreign grown commodities can be held to be within the purpose of the exemption of section 203(b) (6)."

In his dissent, Commissioner Tuggle said that the common carriers are entitled to all of the protections and rights envisioned in the National Transportation Policy.

"Included in the National Transportation Policy is a charge upon this Commission * * * 'to promote safe, adequate, economical, and efficient service and foster sound economic conditions in transportation and among the several carriers.' In this connection, I know of very few ways better to foster unsound economic conditions in transportation than to yield to the present non-Congressional pressures toward broadened exemptions and greater freedom for the fringe area carrier, all clearly at the expense of the backbone carriers of the nation."

He said, too, that there is no evidence of Congressional intent to grant exemption to foreign grown commodities.

Commissioner Murphy agreed with the decision on coffee and cocoa beans but disagreed that tea and salt-cured cucumbers retained a continuing substantial identity. He said:

"* * * Until there is some authoritative court decision covering these commodities we should adhere to our previous decision to curtail as much as possible, within the bounds of reason and what appears to be the intent of Congress, the list of exempt commodities."

Section 7 of the Transportation Act of 1958 has negated a large part of the decisions in both these cases. It has removed from the exemption, by specific enumeration, frozen fruits and vegetables (considered in the Frozen Food Express Case), and cocoa beans, coffee beans, and tea (commodities at issue in the reopening of the Determinations Case). Commodities involved in these cases which have been left within the scope of the exemption are dried egg powder, dried egg yolks, powdered milk, buttermilk, and salt-cured cucumbers.

This is the first time in the history of the agricultural exemption that the Congress has enacted legislation to limit its scope. It limited the exemption both with respect to some commodities which had been judged exempt by the courts and with respect to others on which there had been no legal contest. At the same time, the Congress substantially expanded the application of the exemption to fish products.

APPENDIX

Commodity List in Administrative Ruling No. 107

(Ruling issued on March 19, 1958, by the Bureau of Motor Carriers, Interstate Commerce Commission, regarding status of various commodities in relation to the agricultural exemption in interstate trucking.)

Alfalfa, see Feeds.

Animal fats - Not exempt.

Animals, see Livestock.

Bagged commodities - Placing exempt commodities in bags does not affect their exempt status.

Bark, see Forest Products.

Barley, see Grains.

Bees - Exempt.

Beeswax, crude, in cakes and slabs - Exempt.

Beet pulp, see Feeds.

Beets, sugar - Exempt.

Berries, see Fruits.

Bran, see Feeds.

Broom corn, threshed and baled - Exempt.

Bulbs, see Horticultural Commodities.

Butter - Not exempt.

Buttermilk - Exempt.

Canned fruits and vegetables - Not exempt.

Carnauba wax as imported in slabs or chunks - Not exempt.

Castor beans - Exempt.

Cattle, live, see Livestock.

Cattle, slaughtered - Not exempt.

Charcoal - Not exempt.

Cheese - Not exempt.

" , cottage - Not exempt.

" , cream - Not exempt.

Christmas trees, plain, sprayed, or coated - Exempt.

Citrus fruits, see Fruits.

Coal - Not exempt.

Cocoa beans - Exempt.

Coffee beans, green - Exempt.

" , roasted - Not exempt.

" , instant - Not exempt.

Containers, crates, and boxes which have been used in the movement of exempt commodities and are being returned for reuse - Exempt.

" , new for use in shipping exempt commodities - Not exempt.

Copra meal - Not exempt.

Corn, see Grain.

" cobs - Exempt.

" cobs, ground - Exempt.

" fodder - Exempt.

Cottage cheese, see Cheese.

Cotton, carded but not spun, woven, or knitted - Exempt.

Cotton, ginned or unginned - Exempt.

" linters - Exempt.

" waste, consisting of scraps of cotton fibre not spun, woven or knitted - Exempt.

" yarn - Not exempt.

Cottonseed, whole - Exempt.

" cake - Not exempt.

" , dehulled - Exempt.

" hulls - Exempt.

" meal - Not exempt.

Crates, see Containers.

Cream, see Milk.

Cream cheese, see Cheese.

Dehydrated, see commodity name: Fruits, Vegetables, Eggs, etc.

Diatomaceous earth - Not exempt.

Dinners, frozen - Not exempt.

" , seafood, frozen - Not exempt.

Dried, see commodity name: Fruits, Vegetables, Eggs, etc.

Eggs

Albumen, fresh, liquid - Exempt.

Dried - Exempt.

Frozen - Exempt.

In shell - Exempt.

Liquid, whole or separated - Exempt.

Oiled - Exempt.

Powder, dried - Exempt.

Shelled - Exempt.

Yolks, dried - Exempt.

Yolks, fresh, liquid - Exempt.

Fats, animal - Not exempt.

Feathers - Exempt.

Feeds

Alfalfa meal - Not exempt.

Alfalfa pellets - Not exempt.

Beet pulp - Not exempt.

Bran shorts - Not exempt.

Copra meal - Not exempt.

Corn Gluten - Not exempt.

Cottonseed products, see Cottonseed.

Distilled corn grain residues, with or without solubles added - Not exempt.

Fish meal - Not exempt.

Hominy feed - Not exempt.

Middlings - Not exempt.

Oat hulls, ground - Exempt.

Pelletized ground refuse screenings - Not exempt.

Rice bran - Exempt.

Screenings, feed - Exempt.

Wheat bran - Not exempt.

Wheat shorts - Not exempt.

Fertilizer, commercial - Not exempt.

Fish (including shell fish)

General. Frozen, quick frozen, and unfrozen fish and shell fish in the various forms in which it is shipped, such as live fish, fish in the round, beheaded, and gutted fish, filleted fish, beheaded shrimp, and oysters, clams, crabs, and lobsters, with or without shells, including crab meat and lobster meat - Exempt.

Breaded, uncooked, frozen or unfrozen - Exempt.

Cakes, codfish - Not exempt.

Clam juice or broth - Not exempt.

Cooked or partially cooked fish or shrimp, frozen or unfrozen - Not exempt.

Croquettes, salmon, frozen - Not exempt.

Deviled crabs, clams, or lobsters, frozen - Not exempt.

Dinners, frozen - Not exempt.

Fried fish fillets, oysters, or scallops, frozen - Not exempt.

Frogs, live or dressed - Exempt.

Frozen, see General above, and individual listings.

Hermetically sealed in containers as a treatment for preserving - Not exempt.

Hermetically sealed in containers for cleanliness only, preservation attained by refrigeration - Exempt.

Meal - Not exempt.

Offal (inedible portions of fish not further processed) - Exempt.

Oil from fishes - Not exempt.

Preserved, or treated for preserving, such as smoked, salted, pickled, spiced, corned or kippered - Not exempt.

Shells, oyster, moving to market for use in button making - Not exempt.

Stew, consisting of raw oysters or clams, milk, and seasoning, frozen but uncooked - Exempt.

Sticks, frozen - Not exempt.

Turtles, sea or fresh water - Exempt.

Whale meat, fresh - Exempt.

Flagstone - Not exempt.

Flax fiber - Exempt.

Flaxseed, whole - Exempt.

" meal - Not exempt.

Flour - Not exempt.

Flowers and flower plants, see Horticultural commodities.

Fodder, corn and sorghum - Exempt.

Forage, see Hay.

Forest products

Bark - Exempt.

" , boiled to clean and soften - Exempt.

Blankets of pine and spruce boughs - Exempt.

Greenery - Exempt.

Holly sprigs and cuttings - Exempt.

Leaves - Exempt.

" , sisal, husks and moisture removed - Exempt.

Mistletoe - Exempt.

Myrobalons, as imported in natural state - Exempt.

Palmyra stalk fibers (fronds from palm leaves) - Exempt.

Peat moss, dried, shredded, baled - Exempt.

Resin, crude - Exempt.

Forest products (Continued)

Resin products, such as turpentine - Not exempt.
Roots, natural or dried - Exempt.
Sap, maple - Exempt.
Spanish moss - Exempt.
Sphagnum moss - Exempt.
Spices, see separate listing: Spices.
Trees, see separate listing: Trees.
Valonia, as imported in natural state - Exempt.
Wreaths of holly or other natural material with small amount of foundation or decorative material - Exempt.

Frogs, see Fish.

Frozen, see commodity name: Fruits, Vegetables, Fish, Poultry, etc.

Fruits and Berries

Bagged - Exempt.
Canned - Not exempt.
Citrus fruit sections, fresh, cold-packed, semi-frozen, or frozen - Exempt.
Color added - Exempt.
Dates, pitted, dried - Exempt.
Dehydrated - Exempt.
Dried, naturally or artificially - Exempt.
Figs, dried, halved or quartered - Exempt.
Frozen, fresh - Exempt.
Fumigated - Exempt.
Graded - Exempt.
Hulls of oranges after juice extractions - Not exempt.
In brine, to retain freshness - Exempt.
Juice, orange or other citrus - Not exempt.
" , fruit, plain or concentrated - Not exempt.
Kernels - Exempt.
Oiled apples - Exempt.
Peaches, peeled, pitted, and put in cold storage in unsealed containers - Exempt.
Quick frozen, fresh - Exempt.
Pies, frozen - Not exempt.
Preserved, such as jam - Not exempt.
Purees, strawberry and other, frozen - Not exempt.
Raisins, seeded or unseeded - Exempt.
Sliced, fresh or frozen - Exempt.
Strawberries, in syrup and unsealed containers in cold storage - Exempt.

Grains

Artificially dried - Exempt.
Barley, rolled - Exempt.
" , whole - Exempt.
Corn, cracked - Exempt.
" , shelled - Exempt.
" , whole - Exempt.
Feeds, see separate heading: Feeds.
Hulls, see Feeds.
Milo maize - Exempt.
Oats, whole - Exempt.

Grains (Continued)

Oil extracted from grain - Not exempt.

Popcorn, popped - Not exempt.

" , unpopped, shelled, in sealed or unsealed containers - Exempt.

Rice bran - Exempt.

" , brewers - Exempt.

" , clean - Exempt.

" polish - Exempt.

" , precooked - Not exempt.

" , whole - Exempt.

Rye, whole - Exempt.

Sorghum grains, whole - Exempt.

Wheat germ - Not exempt.

Wheat, whole - Exempt.

Grass sod - Exempt.

Gravel - Not exempt.

Greenery, see Forest products.

Hair, alpaca, camel, or goat, clipped from animal - Exempt.

" , hog or other animal, product of slaughter of animal - Not exempt.

Hay and forage, dried naturally or artificially - Exempt.

" , chopped - Exempt.

" , dehydrated - Exempt.

" , salt (from salt marshes) - Exempt.

" , sweetened with 3% molasses by weight - Not exempt.

Hemp fiber - Exempt.

Herbs, see Spices.

Hides, green and salted - Not exempt.

Honey, in the comb or strained - Exempt.

" , heat treated to retard granulation - Exempt.

Hops - Exempt.

Horticultural commodities

Bulbs - Exempt.

Flowers, growing or cut - Exempt.

Leaves, natural or dried - Exempt.

Nursery stock - Exempt.

Plants, vegetable and flower - Exempt.

Roots, rhubarb, asparagus, mint, etc. - Exempt.

Trees, growing, balled in earth - Exempt.

Wreaths, holly or other natural material, with small amount of foundation or decorative material - Exempt.

Humus, of a nature similar to peat moss - Exempt.

Ice for cooling subsequent shipments of exempt commodities - Exempt.

Imported commodities - Have same status as domestic.

Insecticides - Not exempt.

Juices, see Fruits.

Jute fiber, in bales - Exempt.

Kelp, dried, ground - Exempt.

Latex, see Rubber.

Leaves, see Forest products, Horticultural commodities, and Spices.

Livestock

Exhibit animals, such as those of 4-H club members, which though showed for a few days, are chiefly valuable for slaughter - Exempt.

Medical use animals, such as ordinary healthy swine for serum manufacture - Exempt.

Monkeys - Not exempt.

Ordinary, i.e., all cattle, swine, sheep, goats, horses, and mules, except such as are chiefly valuable for breeding, racing, show purposes, and other special uses - Exempt.

Race horses - Not exempt.

Registered or purebred cattle for ordinary farm or ranch uses, not chiefly valuable for breeding, race, show, or other special purposes - Exempt.

Show horses - Not exempt.

Zoo animals - Not exempt.

Limestone, agricultural - Not exempt.

Linseed meal, see Meal.

Lumber, rough sawed or planed - Not exempt.

Manure, in natural state - Exempt.

" , dried or dehydrated, bagged - Exempt.

Maple sap - Exempt.

" syrup - Not exempt.

Meal, alfalfa - Not exempt.

" , copra - Not exempt.

" , cottonseed - Not exempt.

" , fish - Not exempt.

" , flaxseed - Not exempt.

" , linseed - Not exempt.

" , peanut - Not exempt.

" , soybean - Not exempt.

Meat and meat products, fresh, frozen or canned - Not exempt.

Milk and Cream

Buttermilk - Exempt.

Chocolate - Not exempt.

Condensed - Not exempt.

Frozen - Exempt.

Homogenized - Exempt.

Pasteurized - Exempt.

Powdered - Exempt.

Raw - Exempt.

Skim - Exempt.

" , with two-thirds of water removed, in bulk or unsealed containers - Exempt.

Standardized - Exempt.

Sterilized in hermetically sealed cans - Not exempt.

Vitamin "A" - Exempt.

Milo, see Grains.

Mohair, raw, cleaned, or scoured - Exempt.

Molasses - Not exempt.

Moss, see Forest products.

Mushrooms, fresh - Exempt.

Nursery stock, see Horticultural commodities.

Nuts (including peanuts)

 Peanut meal - Not exempt.

 " shells, ground - Exempt.

 Polished - Exempt.

 Raw, shelled or unshelled - Exempt.

 Roasted or boiled - Not exempt.

 Shelled, raw - Exempt.

 Shells - Exempt.

 " , ground peanut - Exempt.

 Unshelled, raw - Exempt.

Oats, see Grains.

Oil, mint - Not exempt.

Oil, extracted from vegetables, grain, seed, fish, or other commodity - Not exempt.

Packaged commodities - Packaging exempt commodities does not affect their exempt status.

Peanuts, see Nuts.

Peat moss, see Forest products.

Pelletized feeds, see Feeds.

Pelts - Not exempt.

Pies, frozen - Not exempt.

Pigeons, racing - Not exempt.

Plants, vegetable or flower, see Horticultural commodities.

Poles, see Trees.

Popcorn, see Grains.

Poultry, dressed, fresh or frozen - Exempt.

 " feathers - Exempt.

 " , frozen - Exempt.

 " , live - Exempt.

 " , picked - Exempt.

 " , stuffed and frozen - Exempt.

Pulp, beet - Not exempt.

Pulp, sugarcane - Not exempt.

Purees, see Fruits.

Rabbits, dressed - Exempt.

Raisins, see Fruits.

Ramie fiber - Exempt.

Resin, see Forest products.

Rice, see Grains.

Rock - Not exempt.

Roots, see Forest products, Horticultural commodities.

Rubber, crude, in bales - Not exempt.

 " , latex, natural, liquid, from which water has been extracted and to which ammonia has been added - Not exempt.

Rye, see Grains.

Sand - Not exempt.

Sap, see Forest products.

Sawdust, from lumber mills - Not exempt.

Seeds

- Cotton, see Cottonseed.
- Deawned - Exempt.
- Flax, see Flaxseed.
- Inoculated - Exempt.
- Meal made from seeds, see Meal.
- Natural - Exempt.
- Oil extracted from seeds - Not exempt.
- Packets or boxes of seeds in display racks - Exempt.
- Scarified - Exempt.
- Screened or sized - Exempt.
- Spice, see Spices.
- Sprayed for disease control - Exempt.
- Seaweed, dried, ground - Exempt.
- Shells, nuts, see Nuts.
- " , oyster, see Fish.
- Shingle bolts, see Trees.
- Skins, animal - Not exempt.
- Sliced, see commodity name: Fruits, Vegetables, etc.
- Soil, potting - Not exempt.
- " , top - Not exempt.
- Sorghum fodder - Exempt.
- " grains - Exempt.
- Soup, frozen - Not exempt.
- Spices and herbs, unground, whether seeds, berries, leaves, bark, or roots - Exempt.
- Spices and herbs, ground but not further processed - Exempt.
- Stover - Exempt
- Straw - Exempt.
- Sugar - Not exempt.
- " beets - Exempt
- " cane - Exempt.
- " cane pulp - Not exempt.
- " , raw - Not exempt.
- Syrup, cane - Not exempt.
- Syrup, maple - Not exempt.

Tea - Exempt.

Telephone poles, see Trees.

Textile waste, see Cotton waste.

Tobacco

- Chopped leaf - Exempt.
- Cigars and cigarettes - Not exempt.
- Homogenized - Not exempt.
- Leaf - Exempt.
- Redried leaf - Exempt.
- Smoking - Not exempt.
- Stemmed leaf - Exempt.
- Stems - Exempt.

Top soil - Not exempt.

Trees

- Bolts for making shingles - Exempt.

Trees (Continued)

Brush, mesquite, twigs and debris burned off - Exempt.
Christmas, plain, sprayed, or coated - Exempt.
Cut to length, peeled, or split - Exempt.
Growing, see Horticultural commodities.
Sawed into lumber - Not exempt.
Shingle bolts - Exempt.
Telephone poles, not creosoted - Exempt.

Turtles, see Fish.

Vegetables

Bagged - Exempt.
Beans, dried artificially and packed in small container - Exempt.
Candied sweet potatoes, frozen - Not exempt.
Canned - Not exempt.
Cooked - Not exempt.
Cucumbers, salt cured - Exempt.
Cured - Exempt.
Cut up, fresh, in cellophane bags - Exempt.
Dried, naturally or artificially - Exempt.
Dehydrated - Exempt.
French fried potatoes - Not exempt.
Frozen, fresh - Exempt.
Garlic powder - Exempt.
Graded - Exempt.
Oil extracted from vegetables - Not exempt.
Onion powder - Exempt.
" chips and flakes, dried - Exempt.
Peas, split - Exempt.
Peeled, uncooked - Exempt.
Powder, onion and garlic - Exempt.
Quick frozen, fresh - Exempt.
Shelled - Exempt.
Soup, frozen - Not exempt.
Soybean meal - Not exempt.
Washed, fresh, in cellophane bags - Exempt.

Whale meat, see Fish.

Wheat, see Grains.

" products, see Feeds, Flour.

Wood chips for making woodpulp - Not exempt.

Wool, raw, cleaned, or scoured - Exempt.

" grease, as obtained from cleaning or scouring process - Exempt.

" tops and noils - Exempt.

" waste, carded but not spun, woven or knitted - Exempt.

" yarn - Not exempt.

Wreaths, see Forest products.

